



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 11, 1992

Mr. Gerald L. Benadum
Wood, Burney, Cohn & Bradley
P. O. Box 2487
Corpus Christi, Texas 78403

OR92-650

Dear Mr. Benadum:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 17518.

The City of Bishop received a request for the tape and minutes of a closed session of a city council meeting. It has been alleged that the Bishop City Council failed to comply with the Open Meetings Act with regard to the notice given for the closed session in question. You assert that you may withhold the requested information based on section 3(a)(1) of the Open Records Act, which excepts from public disclosure information deemed confidential by law, either Constitutional, statutory, or by judicial decision. We agree.

The Open Meetings Act, article 6252-17, V.T.C.S., provides the only mechanism for public disclosure of the certified agenda or tape of a closed meeting. Attorney General Opinion JM-995 (1988). Two provisions in that act confer exclusive power on the courts to disclose to the public the certified agenda or tape of a closed meeting. Section 2A(c)¹ states in part

The certified agenda of closed or executive sessions shall be made available for public inspection and copying only upon court order in an action brought under this Act.

Section 2A(e) states

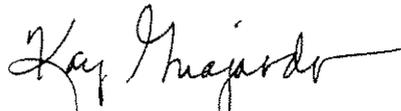
¹Open Records Decision No 495 (1988) at 3, n. 1, determined that section 2A(c) of the Open Meetings Act applies to both certified agendas and tapes of closed sessions.

The certified agenda or tape shall be available for in camera inspection by the judge of a district court if litigation has been initiated involving an alleged violation of this Act. The court upon entry of a final judgment may admit the certified agenda or tape into evidence in whole or in part. The court may grant equitable or legal relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or tape of any part of a meeting that was not authorized to be closed under this Act.

Thus, absent a court order in an action under the Open Meetings Act, the City of Bishop is without authority to release the certified agenda or tapes of a meeting alleged to be improperly closed.² *Id.*; Open Records Decision No. 495 (1988). Accordingly, you must withhold the requested information under section 3(a)(1) of the Open Records Act. *See id.* at 4.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-650.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/lmm

²The attorney general lacks authority to resolve factual disputes about compliance with the Open Meetings Act, as section 2A of the Open Meetings Act confers exclusive power on the courts to determine whether a public meeting is improperly closed. Attorney General Opinion JM-995 (1988) at 6.

Ref: ID# 17518
ID# 17540
ID# 17677

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